

## Tax Compliance Guide

### Audits Topic 323

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As part of a comprehensive tax compliance program, the Sales Tax Division conducts routine audits of taxpayers to determine compliance with the *Westminster Municipal Code*. The purpose of the audit is to determine whether the correct amount of tax has been reported and paid by the taxpayer. Taxpayers are required to maintain adequate books and records to allow for a determination of the taxes due and make those books and records available for inspection by the City. The City selects a diverse group of taxpayers for audit based upon a number of factors. Selection for audit is not an indication that a taxpayer has made an error.

#### How far back can the City audit?

In most cases, the City may audit returns up to 36 months (3 years) after they are filed. This period is fixed by the City's written notice of audit. The City may also extend the period of limitation by entering into a written agreement between the taxpayer and the Finance Director. In some cases, the City may conduct an audit of a taxpayer that has been in business for fewer than 3 years to identify potential problems early. If the taxpayer has filed a false or fraudulent return, or has failed to file a return, the City may collect taxes more than 3 years past due.

#### How will the audit be conducted?

Audits are conducted by the City's team of professional tax auditors who are all familiar with generally accepted accounting principals and auditing standards. Audits are usually conducted at the location where the taxpayer's records are maintained. This can be the taxpayer's place of business, a main office, or an accountant's office. Records can also be examined at City Hall if space is a problem or if records are not available locally. Every effort will be made to conduct the audit at a time that is mutually convenient.

#### If I am based out-of-state, is the City required to travel to the location where my records are maintained?

The City has the discretion to conduct the audit at the location where records are maintained (either locally, or out-of-state), or to require that records be produced at City Hall for examination. In the case of home-based businesses, for example, the audit will not be conducted at the taxpayer's location. Taxpayers are permitted to offer to reimburse the City for costs of travel to out-of-state offices, but the decision to travel remains at the City's discretion. Taxpayers required to produce records at City Hall will be given a reasonable amount of time to do so. In most cases, copies will be acceptable

provided that the auditor may require that some original records be produced for proper authentication.

#### Which records will be examined?

The engagement letter includes a general list of records required. Your own records may vary from these depending on your accounting system. If you are unclear about any of the items requested, it is important to contact your auditor in advance so that all requested records are ready when the fieldwork is scheduled to begin.

Generally, the records requested may include the following:

- ❖ Charts of accounts and other accounting system legends describing department codes, location codes, commodity codes, tax codes or flags, or other codes necessary to understanding accounting system data.
- ❖ Reports detailing how City tax returns were calculated.
- ❖ Detailed ledgers of sales and/or purchase transactions.
- ❖ Trial balances, income statements, or profit and loss reports

Records specific to Sales, Accommodations, and Admissions Tax testing:

- ❖ Sales invoices, billings, or receipts detailing the items purchased, the purchase price, the tax collected, and the delivery address.
- ❖ Documentation supporting exempted sales.

Records specific to Use Tax testing:

- ❖ Purchase invoices for supplies and services not held for resale.
- ❖ Purchase invoices for capital assets.
- ❖ Fixed asset listings or depreciation schedules.

Additional records may be requested during the course of the audit. You will be given reasonable time to produce these records. In some cases, the auditor may review a sample of records rather than reviewing all periods.

#### Will the records I supply be treated as confidential?

With few exceptions, the Code prohibits the disclosure of information obtained from tax returns filed or obtained during the course of an audit to unauthorized persons. Information used by the auditor will be kept secure to prevent unauthorized access. Throughout the audit, you may ask your auditor why certain information is being requested, how such information will be used, and the consequences of failing to submit the requested information.

### **May I be represented by a third party such as an accountant or a lawyer?**

You may retain representation at any time during the audit and have the right to suspend a meeting or interview for a reasonable amount of time in order to retain such representation. Any person representing you must have the proper written authorization to act on your behalf. Such authorization is granted by completing a *Power of Attorney for Department Administered Tax Matters* form, which may be obtained from the auditor or in the *Westminster Tax Forms* section located in the Business tab on the City website.

### **How will I be notified of the auditor's findings?**

Once the auditor has finished examining your records, they will prepare preliminary workpapers along with a letter explaining how the workpapers are organized and, in general, what the auditor found. You will be given sufficient time to review the preliminary findings and gather any additional information requested or necessary to complete the audit and respond to the findings. Once you have gathered the required information, you may review the findings with the auditor and discuss any proposed adjustments. Once this review is complete, the auditor will compute the total adjustments, if any, that need to be made to the audited returns.

Audit documents, workpapers, and correspondence can be provided by the auditor via electronic mail in most cases. The auditor may request that you complete an *Electronic Transmission Acknowledgement* form before sending confidential tax information via e-mail. Audit findings can also be sent by mail in hardcopy, or on disc if you would prefer. The Code requires that certain notices be sent by mail.

### **What if I owe additional taxes?**

If the audit discloses that additional tax is due, a Notice of Assessment will be issued listing the total deficiency, plus penalty and interest. If you agree with the findings, the Notice of Assessment must be paid within 30 days. If you believe that good cause can be demonstrated for penalty abatement a written request for abatement should accompany full payment of the tax and interest. Properly assessed interest cannot be abated. All or part of the Notice of Assessment may be protested within the 30 day period by filing a written protest with the Finance Director. The un-protested amounts must be paid by the due date.

### **How is interest calculated?**

Interest accrues only in whole-month increments from the original due date of the tax until the assessment is paid. The monthly rate is 1% of the tax deficiency, and is not pro-rated if a deficiency is unpaid for only a portion of a month. The filing of a protest does not stop the accrual of interest. The Code prohibits the abatement of interest.

### **How can I reduce the interest assessment?**

In order to reduce the amount of interest accruing monthly, you can make an estimated pre-payment at any time during the audit process. The total tax liability (including penalty and interest) will be computed as of the date of your payment. In accordance with the Code, the pre-payment will be applied to penalty, then interest, then tax. Interest will then continue to accrue on the remaining tax deficiency until paid. You should consider making a pre-payment large enough to cover the total tax, penalty, and interest to date in order to reduce future

interest accrual.

Specific liabilities cannot be assessed or paid separately in order to reduce interest. For example, paying the exact amount of the use tax shown on the preliminary fixed asset workpapers will not stop the interest from accruing on fixed assets. The payment will instead be applied to the total tax liability resulting from the audit as discussed above.

### **What if I am due a refund?**

If the audit discloses an overpayment, a Notice of Overpayment will be issued. A Claim for Refund will need to be completed, signed, and submitted with a copy of the Notice of Overpayment. A refund check will be issued soon after the Claim is returned. If you believe that the actual overpayment exceeds the amount shown on the Notice of Overpayment, the additional amount should be included in the Claim and documentation should be submitted supporting the additional amount. You will be notified in writing if your additional Claim is denied. This denial may be protested within 30 days of issuance.

### **If I do business in multiple cities, can I request a coordinated audit?**

If you have a sales tax license in at least four other Colorado home-rule municipalities, you may request that an audit by all cities be conducted at the same time. You must contact all cities involved within 14 days of your receipt of an audit notice. Contact the Sales Tax Division for details.

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## **Related Topics**

Construction - Audit Procedures  
Notice of Assessment Appeals & Protests

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## **Citations**

*Westminster Municipal Code*  
 § 4-1-9. Duty to Keep Books and Records  
 § 4-1-11. Audit of Records  
 § 4-1-12. Tax Information Confidential  
 § 4-1-21. Penalties  
 § 4-1-22. Interest  
 § 4-1-23. Notice of Assessment  
 § 4-1-25. Protest of Notice of Assessment or Denial of Refund  
 § 4-1-36. Statute of Limitations

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